

**WATER REUSE PROJECTS AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses approval of water reuse projects.

**Highlighted Provisions:**

This bill:

- ▶ defines a term;
- ▶ addresses approval of water reuse projects, including providing that the director of the Division of Water Quality approves;
- ▶ prohibits approval of water reuse projects impacting the Great Salt Lake;
- ▶ authorizes rulemaking;
- ▶ creates exceptions;
- ▶ provides for investigation of water reuse impacts as part of the integrated assessment of the Great Salt Lake; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**19-5-104**, as last amended by Laws of Utah 2020, Chapter 256



- 28 [19-5-106](#), as last amended by Laws of Utah 2012, Chapter 360
- 29 [73-3c-102](#), as enacted by Laws of Utah 2006, Chapter 179
- 30 [73-3c-301](#), as last amended by Laws of Utah 2008, Chapter 382
- 31 [73-3c-304](#), as enacted by Laws of Utah 2006, Chapter 179
- 32 [73-10g-402](#), as enacted by Laws of Utah 2022, Chapter 81

33 ENACTS:

34 [73-3c-103](#), Utah Code Annotated 1953

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36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **19-5-104** is amended to read:

38 **19-5-104. Powers and duties of board.**

39 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
40 board may make rules that:

41 (a) taking into account Subsection (6):

42 (i) implement the awarding of construction loans to political subdivisions and  
43 municipal authorities under Section [11-8-2](#), including:

44 (A) requirements pertaining to applications for a loan;

45 (B) requirements for determination of an eligible project;

46 (C) requirements for determination of the costs upon which a loan is based, which  
47 costs may include engineering, financial, legal, and administrative expenses necessary for the  
48 construction, reconstruction, and improvement of a sewage treatment plant, including a major  
49 interceptor, collection system, or other facility appurtenant to the plant;

50 (D) a priority schedule for awarding loans, in which the board may consider, in  
51 addition to water pollution control needs, any financial needs relevant, including per capita  
52 cost, in making a determination of priority; and

53 (E) requirements for determination of the amount of the loan;

54 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section  
55 [73-10c-4.5](#);

56 (iii) set effluent limitations and standards subject to Section [19-5-116](#);

57 (iv) implement or effectuate the powers and duties of the board; and

58 (v) protect the public health for the design, construction, operation, and maintenance of

59 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen  
60 pit privies;

61 (b) govern inspection, monitoring, recordkeeping, and reporting requirements for  
62 underground injections and require permits for underground injections, to protect drinking  
63 water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and  
64 oil, recognizing that underground injection endangers drinking water sources if:

65 (i) injection may result in the presence of a contaminant in underground water that  
66 supplies or can reasonably be expected to supply a public water system, as defined in Section  
67 19-4-102; and

68 (ii) the presence of the contaminant may:

69 (A) result in the public water system not complying with any national primary drinking  
70 water standards; or

71 (B) otherwise adversely affect the health of persons;

72 (c) govern sewage sludge management, including permitting, inspecting, monitoring,  
73 recordkeeping, and reporting requirements; and

74 (d) notwithstanding Section 19-4-112, govern design and construction of irrigation  
75 systems that:

76 (i) convey sewage treatment facility effluent of human origin in pipelines under  
77 pressure, unless contained in surface pipes wholly on private property and for agricultural  
78 purposes; and

79 (ii) are constructed after May 4, 1998.

80 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
81 the board shall adopt and enforce rules and establish fees to cover the costs of:

82 (i) managing the certification and testing program; and

83 (ii) testing for certification of operators of treatment works and sewerage systems  
84 operated by political subdivisions.

85 (b) In establishing certification rules under Subsection (2)(a), the board shall:

86 (i) base the requirements for certification on the size, treatment process type, and  
87 complexity of the treatment works and sewerage systems operated by political subdivisions;

88 (ii) allow operators until three years after the date of adoption of the rules to obtain  
89 initial certification;

90 (iii) allow a new operator one year from the date the operator is hired by a treatment  
91 plant or sewerage system or three years after the date of adoption of the rules, whichever occurs  
92 later, to obtain certification;

93 (iv) issue certification upon application and without testing, at a grade level  
94 comparable to the grade of current certification to operators who are currently certified under  
95 the voluntary certification plan for wastewater works operators as recognized by the board; and

96 (v) issue a certification upon application and without testing that is valid only at the  
97 treatment works or sewerage system where that operator is currently employed if the operator:

98 (A) is in charge of and responsible for the treatment works or sewerage system on  
99 March 16, 1991;

100 (B) has been employed at least 10 years in the operation of that treatment works or  
101 sewerage system before March 16, 1991; and

102 (C) demonstrates to the board the operator's capability to operate the treatment works  
103 or sewerage system at which the operator is currently employed by providing employment  
104 history and references as required by the board.

105 (3) The board shall:

106 (a) develop programs for the prevention, control, and abatement of new or existing  
107 pollution of the waters of the state;

108 (b) adopt, modify, or repeal standards of quality of the waters of the state and classify  
109 those waters according to their reasonable uses in the interest of the public under conditions the  
110 board may prescribe for the prevention, control, and abatement of pollution;

111 (c) give reasonable consideration in the exercise of its powers and duties to the  
112 economic impact of water pollution control on industry and agriculture;

113 (d) meet the requirements of federal law related to water pollution;

114 (e) establish and conduct a continuing planning process for control of water pollution,  
115 including the specification and implementation of maximum daily loads of pollutants;

116 ~~[(f) (i) approve, approve in part, approve with conditions, or deny, in writing, an  
117 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and]~~

118 ~~[(ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater  
119 Reuse Act;]~~

120 ~~[(g)]~~ (f) (i) review total daily maximum load reports and recommendations for water

- 121 quality end points and implementation strategies developed by the division before submission  
122 of the report, recommendation, or implementation strategy to the EPA;
- 123 (ii) disapprove, approve, or approve with conditions the staff total daily maximum load  
124 recommendations; and
- 125 (iii) provide suggestions for further consideration to the Division of Water Quality in  
126 the event a total daily maximum load strategy is rejected; and
- 127 ~~[(h)]~~ (g) to ensure compliance with applicable statutes and regulations:
- 128 (i) review a settlement negotiated by the director in accordance with Subsection  
129 19-5-106(2)(k) that requires a civil penalty of \$25,000 or more; and
- 130 (ii) approve or disapprove the settlement described in Subsection ~~[(3)(h)(i)]~~ (3)(g)(i).
- 131 (4) The board may:
- 132 (a) order the director to issue, modify, or revoke an order:
- 133 (i) prohibiting or abating discharges;
- 134 (ii) (A) requiring the construction of new treatment works or any parts of the new  
135 treatment works;
- 136 (B) requiring the modification, extension, or alteration of existing treatment works as  
137 specified by board rule or any parts of existing treatment works; or
- 138 (C) the adoption of other remedial measures to prevent, control, or abate pollution;
- 139 (iii) setting standards of water quality, classifying waters or evidencing any other  
140 determination by the board under this chapter; or
- 141 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 142 (b) advise, consult, and cooperate with another agency of the state, the federal  
143 government, another state, an interstate agency, an affected group, an affected political  
144 subdivision, or affected industry to further the purposes of this chapter; or
- 145 (c) delegate the authority to issue an operating permit to a local health department.
- 146 (5) In performing the duties listed in Subsections (1) through (4), the board shall give  
147 priority to pollution that results in a hazard to the public health.
- 148 (6) The board shall take into consideration the availability of federal grants:
- 149 (a) in determining eligible project costs; and
- 150 (b) in establishing priorities pursuant to Subsection (1)(a)(i).
- 151 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the

152 following that are subject to the authority granted to the director under Section 19-5-106:

- 153 (a) a permit;
- 154 (b) a license;
- 155 (c) a registration;
- 156 (d) a certification; or
- 157 (e) another administrative authorization made by the director.

158 (8) A board member may not speak or act for the board unless the board member is  
159 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

160 Section 2. Section 19-5-106 is amended to read:

161 **19-5-106. Director -- Appointment -- Duties.**

162 (1) The executive director shall appoint the director. The director shall serve under the  
163 administrative direction of the executive director.

164 (2) The director shall:

165 (a) develop programs for the prevention, control, and abatement of new or existing  
166 pollution of the waters of the state;

167 (b) advise, consult, and cooperate with other agencies of the state, the federal  
168 government, other states and interstate agencies, and with affected groups, political  
169 subdivisions, and industries in furtherance of the purposes of this chapter;

170 (c) develop programs for the management of sewage sludge;

171 (d) subject to the provisions of this chapter, enforce rules made by the board through  
172 the issuance of orders, which orders may include:

173 (i) prohibiting or abating discharges of wastes into the waters of the state;

174 (ii) requiring the construction of new control facilities or any parts of them or the  
175 modification, extension, or alteration of existing control facilities or any parts of them, or the  
176 adoption of other remedial measures to prevent, control, or abate water pollution; or

177 (iii) prohibiting any other violation of this chapter or rules made under this chapter;

178 (e) review plans, specifications, or other data relative to pollution control systems or  
179 any part of the systems provided for in this chapter;

180 (f) issue construction or operating permits for the installation or modification of  
181 treatment works or any parts of the treatment works;

182 (g) after public notice and opportunity for public hearing, issue, continue in effect,

183 renew, revoke, modify, or deny discharge permits under reasonable conditions the board may  
184 prescribe to:

185 (i) control the management of sewage sludge; or  
186 (ii) prevent or control the discharge of pollutants, including effluent limitations for the  
187 discharge of wastes into the waters of the state;

188 (h) meet the requirements of federal law related to water pollution;

189 (i) under the direction of the executive director, represent the state in all matters  
190 pertaining to water pollution, including interstate compacts and other similar agreements;

191 (j) collect and disseminate information relating to water pollution and the prevention,  
192 control, and abatement of water pollution; ~~and~~

193 (k) subject to Subsection ~~[19-5-104(3)(h),]~~ 19-5-104(3)(g), settle or compromise any  
194 civil action initiated by the division to compel compliance with this chapter or the rules made  
195 under this chapter~~[-]; and~~

196 (l) (i) approve, approve in part, approve with conditions, or deny, in writing, an  
197 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

198 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater  
199 Reuse Act.

200 (3) The director may:

201 (a) employ full-time employees as necessary to carry out the provisions of this chapter;

202 (b) subject to the provisions of this chapter, authorize any employee or representative  
203 of the department to enter, at reasonable times and upon reasonable notice, in or upon public or  
204 private property for the purposes of inspecting and investigating conditions and plant records  
205 concerning possible water pollution;

206 (c) encourage, participate in, or conduct studies, investigations, research, and  
207 demonstrations relating to water pollution and causes of water pollution as necessary for the  
208 discharge of duties assigned under this chapter, including the establishment of inventories of  
209 pollution sources;

210 (d) collect and disseminate information relating to water pollution and the prevention,  
211 control, and abatement of water pollution;

212 (e) subject to the provisions of this chapter, exercise all incidental powers necessary to  
213 carry out the purposes of this chapter, including certification to any state or federal authorities

214 for tax purposes only if the construction, installation, or acquisition of any facility, land,  
 215 building, machinery, equipment, or any part of them conforms with this chapter;  
 216 (f) cooperate with any person in studies and research regarding water pollution and its  
 217 control, abatement, and prevention;  
 218 (g) encourage, participate in, or conduct studies, investigations, research, and  
 219 demonstrations relating to water pollution and causes of water pollution; or  
 220 (h) as authorized by the board and subject to the provisions of this chapter, act as  
 221 executive secretary of the board under the direction of the chairman of the board.

222 Section 3. Section **73-3c-102** is amended to read:

223 **73-3c-102. Definitions.**

224 As used in this chapter:

225 (1) "Director" means the director of the Division of Water Quality appointed under  
 226 Section 19-5-106.

227 (2) "Domestic wastewater" or "sewage" means:

228 (a) a combination of the liquid or water-carried wastes from:

229 (i) structures with installed plumbing facilities; and

230 (ii) industrial establishments; and

231 (b) any groundwater, surface water, and storm water that is present with the waste.

232 [~~2~~] (3) "POTW" means a publicly owned treatment works as defined by Section  
 233 19-5-102.

234 [~~3~~] (4) "Public agency" means a public agency as defined by Section 11-13-103 that:

235 (a) owns or operates a POTW;

236 (b) collects and transports domestic wastewater;

237 (c) holds legal title to a water right;

238 (d) is delegated the right to the beneficial use or reuse of water by the legal title holder  
 239 of the water right;

240 (e) is a water supplier; or

241 (f) sells wholesale or retail water.

242 [~~4~~] (5) "Return flow requirement" means return flow required under a water right.

243 [~~5~~] (6) (a) "Reuse authorization contract" means a contract or contracts among:

244 (i) a public agency proposing a water reuse project;



245 (ii) the owner or operator of a POTW that treats domestic wastewater proposed for use  
246 in a reuse project;

247 (iii) the owner of a domestic wastewater collection or transportation system if the reuse  
248 project will divert domestic wastewater directly from that entity's collection or transportation  
249 system;

250 (iv) the legal title holder of the water right designated for use in the reuse project,  
251 unless the legal title holder of the water right has delegated to another the right to the beneficial  
252 use or reuse of the water;

253 (v) each water supplier not holding legal title to the water right designated for use in  
254 the reuse project that sells or delivers water under the water right designated for use in the  
255 reuse project;

256 (vi) each entity that will engage in the wholesale or retail sale of water from the water  
257 reuse project; and

258 (vii) the retail water supplier retailing water that will be replaced by reuse water  
259 supplied under the proposed reuse project.

260 (b) A reuse authorization contract shall:

261 (i) provide that a water supplier that is a party to the agreement consents to the use of  
262 reuse water under each water right, in which the water supplier has an interest, that is identified  
263 for use in the water reuse project; and

264 (ii) provide that any proposed water reuse project based on the contract shall be  
265 consistent with the underlying water right.

266 ~~[(6)]~~ (7) "Reuse water" means domestic wastewater treated to a standard acceptable  
267 under rules made by the Water Quality Board under Section 19-5-104.

268 ~~[(7)]~~ (8) "Water reuse project" or "project" means a project for the reuse of domestic  
269 wastewater that requires approval by the ~~[Water Quality Board in accordance with Section~~  
270 ~~19-5-104]~~ director under Section 19-5-106 and the state engineer under Section 73-3c-302.

271 ~~[(8)]~~ (9) "Water right" means:

272 (a) a right to use water evidenced by any means identified in Section 73-1-10; or

273 (b) a right to use water under an approved application:

274 (i) to appropriate;

275 (ii) for a change of use; or

276 (iii) for the exchange of water.

277 [~~9~~] (10) "Water supplier" means an entity engaged in the delivery of water for  
278 municipal purposes.

279 Section 4. Section 73-3c-103 is enacted to read:

280 **73-3c-103. Water reuse projects and the Great Salt Lake -- Exception.**

281 (1) Except as provided in Subsection (3) and notwithstanding the other provisions of  
282 this chapter, the director and the state engineer may not approve a water reuse project if the  
283 water related to the water reuse project would have otherwise been discharged into a tributary  
284 of the Great Salt Lake.

285 (2) The state engineer may, by rule made in accordance with Title 63G, Chapter 3,  
286 Utah Administrative Rulemaking Act, define what is a tributary of the Great Salt Lake.

287 (3) This section does not apply to:

288 (a) a water right owned by the federal government; or

289 (b) a water reuse project to supply water to the Great Salt Lake.

290 Section 5. Section 73-3c-301 is amended to read:

291 **73-3c-301. Application to the director.**

292 (1) A public agency proposing a water reuse project shall apply to the [~~Water Quality~~  
293 ~~Board created by Section 19-1-106]~~ director.

294 (2) The Water Quality Board may make rules, in accordance with Title 63G, Chapter 3,  
295 Utah Administrative Rulemaking Act, governing the consideration and approval by the director  
296 of water reuse applications and administration of water reuse construction and operating  
297 permits.

298 (3) Rules [~~created~~] made under Subsection (2) shall require that water reuse meet  
299 standards and requirements for water quality set by the Water Quality Board in accordance with  
300 Title 19, Chapter 5, Water Quality Act.

301 (4) The [~~Water Quality Board~~] director shall issue a written decision for each water  
302 reuse application.

303 Section 6. Section 73-3c-304 is amended to read:

304 **73-3c-304. Change in point of discharge.**

305 (1) The point of discharge of water from a POTW may be changed if the [~~Water~~  
306 ~~Quality Board~~] director determines that a change is necessary:

- 307 (a) for treatment purposes;
- 308 (b) to enhance environmental quality;
- 309 (c) to protect public health, safety, or welfare; or
- 310 (d) to comply with:
  - 311 (i) rules created by the Water Quality Board in accordance with Section 19-5-104; or
  - 312 (ii) the POTW's discharge permit.
- 313 (2) Before changing the point of discharge from a POTW under Subsection (1), the
- 314 ~~[Water Quality Board]~~ director shall consult with the state engineer.

315 Section 7. Section 73-10g-402 is amended to read:

316 **73-10g-402. Development of an integrated water assessment.**

317 (1) The division shall develop and implement an integrated surface and ground water  
318 assessment for the Great Salt Lake watershed.

319 (2) The integrated water assessment may in relationship with the Great Salt Lake  
320 watershed:

- 321 (a) provide an assessment of the amounts and quality of available water resources;
- 322 (b) assess and forecast the quantity of water available for human, agricultural,  
323 economic development, and environmental or instream uses, and ecological needs, including:
  - 324 (i) current and future water supply and demand and the factors that influence  
325 availability;
  - 326 (ii) long-term trends in water availability and the causes of those trends; and
  - 327 (iii) seasonal and decadal forecasts of availability;
- 328 (c) investigate the potential benefits of forest management and watershed restoration  
329 in:

- 330 (i) improving snowpack retention;
- 331 (ii) increasing soil moisture;
- 332 (iii) sustaining river flows in low flow seasons;
- 333 (iv) mitigating wildfire risk; and
- 334 (v) improving water quality;
- 335 (d) coordinate an effort to:
  - 336 (i) quantify the amount of water and water quality needed to sustain high priority  
337 ecological sites in rivers, riparian, wetland, and lake systems; and

- 338 (ii) incorporate the water demand into the water supply and demand model;
- 339 (e) identify and evaluate best management practices that may be used to provide a
- 340 reliable water supply that:
- 341 (i) meet water quality objectives;
- 342 (ii) meet agriculture water objectives;
- 343 (iii) accommodate anticipated growth and economic development; and
- 344 (iv) provide adequate flow to sustain the Great Salt Lake, the Great Salt Lake's
- 345 wetlands, and other ecological functions in the Great Salt Lake's watershed; ~~and~~
- 346 (f) investigate the potential impacts of water reuse projects on the Great Salt Lake; and
- 347 ~~(f)~~ (g) address other matters identified in the work plan.
- 348 (3) The integrated water assessment shall include a water budget for the Great Salt
- 349 Lake and the Great Salt Lake's associated wetlands, including water flows needed to maintain
- 350 different lake levels under different scenarios, taking into consideration water quality,
- 351 ecological needs, economic benefits, and public health benefits of the Great Salt Lake.
- 352 (4) In developing and implementing the integrated water assessment, the division shall:
- 353 (a) consult and coordinate with other state, local, regional, and federal governmental
- 354 entities, water users, and other stakeholders; and
- 355 (b) coordinate with, and where appropriate, consider or incorporate other planning
- 356 efforts, assessments, studies, or reports relevant to the Great Salt Lake watershed.